



Senate

General Assembly

File No. 677

January Session, 2023

Substitute Senate Bill No. 1109

Senate, May 2, 2023

The Committee on Appropriations reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING MEDICAID REIMBURSEMENT TO COMMUNITY LIVING ARRANGEMENTS, INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, RESIDENTIAL CARE HOMES AND NURSING FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-244 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) The room and board component of the rates to be paid by the state
4 to private facilities and facilities operated by regional education service
5 centers which are licensed to provide residential care pursuant to
6 section 17a-227, but not certified to participate in the Title XIX Medicaid
7 program as intermediate care facilities for individuals with intellectual
8 disabilities, shall be determined annually by the Commissioner of Social
9 Services. [, except that rates effective April 30, 1989, shall remain in effect
10 through October 31, 1989. Any facility with real property other than
11 land placed in service prior to July 1, 1991, shall, for the fiscal year
12 ending June 30, 1995, receive a rate of return on real property equal to

13 the average of the rates of return applied to real property other than land
14 placed in service for the five years preceding July 1, 1993.] For the fiscal
15 year ending June 30, 1996, and any succeeding fiscal year, the rate of
16 return on real property for property items shall be revised every five
17 years. The commissioner shall, upon submission of a request by such
18 facility, allow actual debt service, comprised of principal and interest,
19 on the loan or loans in lieu of property costs allowed pursuant to section
20 17-313b-5 of the regulations of Connecticut state agencies, whether
21 actual debt service is higher or lower than such allowed property costs,
22 provided such debt service terms and amounts are reasonable in
23 relation to the useful life and the base value of the property. In the case
24 of facilities financed through the Connecticut Housing Finance
25 Authority, the commissioner shall allow actual debt service, comprised
26 of principal, interest and a reasonable repair and replacement reserve
27 on the loan or loans in lieu of property costs allowed pursuant to section
28 17-313b-5 of the regulations of Connecticut state agencies, whether
29 actual debt service is higher or lower than such allowed property costs,
30 provided such debt service terms and amounts are determined by the
31 commissioner at the time the loan is entered into to be reasonable in
32 relation to the useful life and base value of the property. The
33 commissioner may allow fees associated with mortgage refinancing
34 provided such refinancing will result in state reimbursement savings,
35 after comparing costs over the terms of the existing proposed loans. For
36 the fiscal year ending June 30, 1992, the inflation factor used to
37 determine rates shall be one-half of the gross national product
38 percentage increase for the period between the midpoint of the cost year
39 through the midpoint of the rate year. For fiscal year ending June 30,
40 1993, the inflation factor used to determine rates shall be two-thirds of
41 the gross national product percentage increase from the midpoint of the
42 cost year to the midpoint of the rate year. For the fiscal years ending
43 June 30, 1996, and June 30, 1997, no inflation factor shall be applied in
44 determining rates. The Commissioner of Social Services shall prescribe
45 uniform forms on which such facilities shall report their costs. Such rates
46 shall be determined on the basis of a reasonable payment for necessary
47 services. Any increase in grants, gifts, fund-raising or endowment

48 income used for the payment of operating costs by a private facility in
49 the fiscal year ending June 30, 1992, shall be excluded by the
50 commissioner from the income of the facility in determining the rates to
51 be paid to the facility for the fiscal year ending June 30, 1993, provided
52 any operating costs funded by such increase shall not obligate the state
53 to increase expenditures in subsequent fiscal years. Nothing contained
54 in this section shall authorize a payment by the state to any such facility
55 in excess of the charges made by the facility for comparable services to
56 the general public. The service component of the rates to be paid by the
57 state to private facilities and facilities operated by regional education
58 service centers which are licensed to provide residential care pursuant
59 to section 17a-227, but not certified to participate in the Title XIX
60 Medicaid programs as intermediate care facilities for individuals with
61 intellectual disabilities, shall be determined annually by the
62 Commissioner of Developmental Services in accordance with section
63 17b-244a. For the fiscal year ending June 30, 2008, no facility shall receive
64 a rate that is more than two per cent greater than the rate in effect for
65 the facility on June 30, 2007, except any facility that would have been
66 issued a lower rate effective July 1, 2007, due to interim rate status or
67 agreement with the department, shall be issued such lower rate effective
68 July 1, 2007. For the fiscal year ending June 30, 2009, no facility shall
69 receive a rate that is more than two per cent greater than the rate in effect
70 for the facility on June 30, 2008, except any facility that would have been
71 issued a lower rate effective July 1, 2008, due to interim rate status or
72 agreement with the department, shall be issued such lower rate effective
73 July 1, 2008. For the fiscal years ending June 30, 2010, and June 30, 2011,
74 rates in effect for the period ending June 30, 2009, shall remain in effect
75 until June 30, 2011, except that (1) the rate paid to a facility may be higher
76 than the rate paid to the facility for the period ending June 30, 2009, if a
77 capital improvement required by the Commissioner of Developmental
78 Services for the health or safety of the residents was made to the facility
79 during the fiscal years ending June 30, 2010, or June 30, 2011, and (2) any
80 facility that would have been issued a lower rate for the fiscal year
81 ending June 30, 2010, or June 30, 2011, due to interim rate status or
82 agreement with the department, shall be issued such lower rate. For the

83 fiscal year ending June 30, 2012, rates in effect for the period ending June
84 30, 2011, shall remain in effect until June 30, 2012, except that (A) the
85 rate paid to a facility may be higher than the rate paid to the facility for
86 the period ending June 30, 2011, if a capital improvement required by
87 the Commissioner of Developmental Services for the health or safety of
88 the residents was made to the facility during the fiscal year ending June
89 30, 2012, and (B) any facility that would have been issued a lower rate
90 for the fiscal year ending June 30, 2012, due to interim rate status or
91 agreement with the department, shall be issued such lower rate. Any
92 facility that has a significant decrease in land and building costs shall
93 receive a reduced rate to reflect such decrease in land and building costs.
94 The rate paid to a facility may be increased if a capital improvement
95 approved by the Department of Developmental Services, in consultation
96 with the Department of Social Services, for the health or safety of the
97 residents was made to the facility during the fiscal year ending June 30,
98 2014, or June 30, 2015, only to the extent such increases are within
99 available appropriations. For the fiscal years ending June 30, 2016, and
100 June 30, 2017, rates shall not exceed those in effect for the period ending
101 June 30, 2015, except the rate paid to a facility may be higher than the
102 rate paid to the facility for the period ending June 30, 2015, if a capital
103 improvement approved by the Department of Developmental Services,
104 in consultation with the Department of Social Services, for the health or
105 safety of the residents was made to the facility during the fiscal year
106 ending June 30, 2016, or June 30, 2017, to the extent such rate increases
107 are within available appropriations. For the fiscal years ending June 30,
108 2016, and June 30, 2017, and each succeeding fiscal year, any facility that
109 would have been issued a lower rate, due to interim rate status, a change
110 in allowable fair rent or agreement with the department, shall be issued
111 such lower rate. For the fiscal years ending June 30, 2018, and June 30,
112 2019, rates shall not exceed those in effect for the period ending June 30,
113 2017, except the rate paid to a facility may be higher than the rate paid
114 to the facility for the period ending June 30, 2017, if a capital
115 improvement approved by the Department of Developmental Services,
116 in consultation with the Department of Social Services, for the health or
117 safety of the residents was made to the facility during the fiscal year

118 ending June 30, 2018, or June 30, 2019, to the extent such rate increases
119 are within available appropriations. For the fiscal years ending June 30,
120 2020, and June 30, 2021, rates shall not exceed those in effect for the fiscal
121 year ending June 30, 2019, except the rate paid to a facility may be higher
122 than the rate paid to the facility for the fiscal year ending June 30, 2019,
123 if a capital improvement approved by the Department of
124 Developmental Services, in consultation with the Department of Social
125 Services, for the health or safety of the residents was made to the facility
126 during the fiscal year ending June 30, 2020, or June 30, 2021, to the extent
127 such rate increases are within available appropriations. For the fiscal
128 years ending June 30, 2022, and June 30, 2023, rates shall be based upon
129 rates in effect for the fiscal year ending June 30, 2021, inflated by the
130 gross domestic product deflator applicable to each rate year, except the
131 commissioner may, in the commissioner's discretion and within
132 available appropriations, provide pro rata fair rent increases to facilities
133 which have documented fair rent additions placed in service in the cost
134 report years ending September 30, 2020, and September 30, 2021, that
135 are not otherwise included in rates issued, or if a rate adjustment for a
136 capital improvement approved by the Department of Developmental
137 Services, in consultation with the Department of Social Services, for the
138 health or safety of the residents was made to the facility during the fiscal
139 year ending June 30, 2022, or June 30, 2023.

140 (b) Notwithstanding the provisions of subsection (a) of this section,
141 state rates of payment for the fiscal years ending June 30, 2018, June 30,
142 2019, June 30, 2020, and June 30, 2021, for residential care homes and
143 community living arrangements that receive the flat rate for residential
144 services under section 17-311-54 of the regulations of Connecticut state
145 agencies shall be set in accordance with section 298 of public act 19-117.
146 For the fiscal years ending June 30, 2022, and June 30, 2023, rates shall
147 be based upon rates in effect for the fiscal year ending June 30, 2021,
148 inflated by the gross domestic product deflator applicable to each rate
149 year.

150 (c) For the fiscal year ending June 30, 2024, and each subsequent fiscal
151 year, the commissioner may, in the commissioner's discretion and

152 within available appropriations, provide pro rata fair rent increases to
153 facilities which have documented fair rent additions placed in service in
154 the cost report years that are not otherwise included in rates issued.

155 [(c)] (d) The Commissioner of Social Services and the Commissioner
156 of Developmental Services shall adopt regulations in accordance with
157 the provisions of chapter 54 to implement the provisions of this section.

158 Sec. 2. Subsection (h) of section 17b-340 of the general statutes is
159 repealed and the following is substituted in lieu thereof (*Effective July 1,*
160 *2023*):

161 (h) (1) For the fiscal year ending June 30, 1993, any intermediate care
162 facility for individuals with intellectual disabilities with an operating
163 cost component of its rate in excess of one hundred forty per cent of the
164 median of operating cost components of rates in effect January 1, 1992,
165 shall not receive an operating cost component increase. For the fiscal
166 year ending June 30, 1993, any intermediate care facility for individuals
167 with intellectual disabilities with an operating cost component of its rate
168 that is less than one hundred forty per cent of the median of operating
169 cost components of rates in effect January 1, 1992, shall have an
170 allowance for real wage growth equal to thirty per cent of the increase
171 determined in accordance with subsection (q) of section 17-311-52 of the
172 regulations of Connecticut state agencies, provided such operating cost
173 component shall not exceed one hundred forty per cent of the median
174 of operating cost components in effect January 1, 1992. Any facility with
175 real property other than land placed in service prior to October 1, 1991,
176 shall, for the fiscal year ending June 30, 1995, receive a rate of return on
177 real property equal to the average of the rates of return applied to real
178 property other than land placed in service for the five years preceding
179 October 1, 1993. For the fiscal year ending June 30, 1996, and any
180 succeeding fiscal year, the rate of return on real property for property
181 items shall be revised every five years. The commissioner shall, upon
182 submission of a request, allow actual debt service, comprised of
183 principal and interest, in excess of property costs allowed pursuant to
184 section 17-311-52 of the regulations of Connecticut state agencies,

185 provided such debt service terms and amounts are reasonable in
186 relation to the useful life and the base value of the property. For the fiscal
187 year ending June 30, 1995, and any succeeding fiscal year, the inflation
188 adjustment made in accordance with subsection (p) of section 17-311-52
189 of the regulations of Connecticut state agencies shall not be applied to
190 real property costs. For the fiscal year ending June 30, 1996, and any
191 succeeding fiscal year, the allowance for real wage growth, as
192 determined in accordance with subsection (q) of section 17-311-52 of the
193 regulations of Connecticut state agencies, shall not be applied. For the
194 fiscal year ending June 30, 1996, and any succeeding fiscal year, no rate
195 shall exceed three hundred seventy-five dollars per day unless the
196 commissioner, in consultation with the Commissioner of
197 Developmental Services, determines after a review of program and
198 management costs, that a rate in excess of this amount is necessary for
199 care and treatment of facility residents. For the fiscal year ending June
200 30, 2002, rate period, the Commissioner of Social Services shall increase
201 the inflation adjustment for rates made in accordance with subsection
202 (p) of section 17-311-52 of the regulations of Connecticut state agencies
203 to update allowable fiscal year 2000 costs to include a three and one-half
204 per cent inflation factor. For the fiscal year ending June 30, 2003, rate
205 period, the commissioner shall increase the inflation adjustment for
206 rates made in accordance with subsection (p) of section 17-311-52 of the
207 regulations of Connecticut state agencies to update allowable fiscal year
208 2001 costs to include a one and one-half per cent inflation factor, except
209 that such increase shall be effective November 1, 2002, and such facility
210 rate in effect for the fiscal year ending June 30, 2002, shall be paid for
211 services provided until October 31, 2002, except any facility that would
212 have been issued a lower rate effective July 1, 2002, than for the fiscal
213 year ending June 30, 2002, due to interim rate status or agreement with
214 the department shall be issued such lower rate effective July 1, 2002, and
215 have such rate updated effective November 1, 2002, in accordance with
216 applicable statutes and regulations. For the fiscal year ending June 30,
217 2004, rates in effect for the period ending June 30, 2003, shall remain in
218 effect, except any facility that would have been issued a lower rate
219 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due

220 to interim rate status or agreement with the department shall be issued
221 such lower rate effective July 1, 2003. For the fiscal year ending June 30,
222 2005, rates in effect for the period ending June 30, 2004, shall remain in
223 effect until September 30, 2004. Effective October 1, 2004, each facility
224 shall receive a rate that is five per cent greater than the rate in effect
225 September 30, 2004. Effective upon receipt of all the necessary federal
226 approvals to secure federal financial participation matching funds
227 associated with the rate increase provided in subdivision (4) of
228 subsection (f) of this section, but in no event earlier than October 1, 2005,
229 and provided the user fee imposed under section 17b-320 is required to
230 be collected, each facility shall receive a rate that is four per cent more
231 than the rate the facility received in the prior fiscal year, except any
232 facility that would have been issued a lower rate effective October 1,
233 2005, than for the fiscal year ending June 30, 2005, due to interim rate
234 status or agreement with the department, shall be issued such lower rate
235 effective October 1, 2005. Such rate increase shall remain in effect unless:
236 [(1)] (A) The federal financial participation matching funds associated
237 with the rate increase are no longer available; or [(2)] (B) the user fee
238 created pursuant to section 17b-320 is not in effect. For the fiscal year
239 ending June 30, 2007, rates in effect for the period ending June 30, 2006,
240 shall remain in effect until September 30, 2006, except any facility that
241 would have been issued a lower rate effective July 1, 2006, than for the
242 fiscal year ending June 30, 2006, due to interim rate status or agreement
243 with the department, shall be issued such lower rate effective July 1,
244 2006. Effective October 1, 2006, no facility shall receive a rate that is more
245 than three per cent greater than the rate in effect for the facility on
246 September 30, 2006, except any facility that would have been issued a
247 lower rate effective October 1, 2006, due to interim rate status or
248 agreement with the department, shall be issued such lower rate effective
249 October 1, 2006. For the fiscal year ending June 30, 2008, each facility
250 shall receive a rate that is two and nine-tenths per cent greater than the
251 rate in effect for the period ending June 30, 2007, except any facility that
252 would have been issued a lower rate effective July 1, 2007, than for the
253 rate period ending June 30, 2007, due to interim rate status, or agreement
254 with the department, shall be issued such lower rate effective July 1,

255 2007. For the fiscal year ending June 30, 2009, rates in effect for the
256 period ending June 30, 2008, shall remain in effect until June 30, 2009,
257 except any facility that would have been issued a lower rate for the fiscal
258 year ending June 30, 2009, due to interim rate status or agreement with
259 the department, shall be issued such lower rate. For the fiscal years
260 ending June 30, 2010, and June 30, 2011, rates in effect for the period
261 ending June 30, 2009, shall remain in effect until June 30, 2011, except
262 any facility that would have been issued a lower rate for the fiscal year
263 ending June 30, 2010, or the fiscal year ending June 30, 2011, due to
264 interim rate status or agreement with the department, shall be issued
265 such lower rate. For the fiscal year ending June 30, 2012, rates in effect
266 for the period ending June 30, 2011, shall remain in effect until June 30,
267 2012, except any facility that would have been issued a lower rate for
268 the fiscal year ending June 30, 2012, due to interim rate status or
269 agreement with the department, shall be issued such lower rate. For the
270 fiscal years ending June 30, 2014, and June 30, 2015, rates shall not
271 exceed those in effect for the period ending June 30, 2013, except the rate
272 paid to a facility may be higher than the rate paid to the facility for the
273 period ending June 30, 2013, if a capital improvement approved by the
274 Department of Developmental Services, in consultation with the
275 Department of Social Services, for the health or safety of the residents
276 was made to the facility during the fiscal year ending June 30, 2014, or
277 June 30, 2015, to the extent such rate increases are within available
278 appropriations. Any facility that would have been issued a lower rate
279 for the fiscal year ending June 30, 2014, or the fiscal year ending June 30,
280 2015, due to interim rate status or agreement with the department, shall
281 be issued such lower rate. For the fiscal years ending June 30, 2016, and
282 June 30, 2017, rates shall not exceed those in effect for the period ending
283 June 30, 2015, except the rate paid to a facility may be higher than the
284 rate paid to the facility for the period ending June 30, 2015, if a capital
285 improvement approved by the Department of Developmental Services,
286 in consultation with the Department of Social Services, for the health or
287 safety of the residents was made to the facility during the fiscal year
288 ending June 30, 2016, or June 30, 2017, to the extent such rate increases
289 are within available appropriations. For the fiscal years ending June 30,

290 2016, and June 30, 2017, and each succeeding fiscal year, any facility that
291 would have been issued a lower rate, due to interim rate status, a change
292 in allowable fair rent or agreement with the department, shall be issued
293 such lower rate. For the fiscal years ending June 30, 2018, and June 30,
294 2019, rates shall not exceed those in effect for the period ending June 30,
295 2017, except the rate paid to a facility may be higher than the rate paid
296 to the facility for the period ending June 30, 2017, if a capital
297 improvement approved by the Department of Developmental Services,
298 in consultation with the Department of Social Services, for the health or
299 safety of the residents was made to the facility during the fiscal year
300 ending June 30, 2018, or June 30, 2019, only to the extent such rate
301 increases are within available appropriations. For the fiscal years ending
302 June 30, 2020, and June 30, 2021, rates shall not exceed those in effect for
303 the fiscal year ending June 30, 2019, except the rate paid to a facility may
304 be higher than the rate paid to the facility for the fiscal year ending June
305 30, 2019, if a capital improvement approved by the Department of
306 Developmental Services, in consultation with the Department of Social
307 Services, for the health or safety of the residents was made to the facility
308 during the fiscal year ending June 30, 2020, or June 30, 2021, only to the
309 extent such rate increases are within available appropriations. For the
310 fiscal year ending June 30, 2022, rates shall not exceed those in effect for
311 the fiscal year ending June 30, 2021, except the commissioner may, in the
312 commissioner's discretion and within available appropriations, provide
313 pro rata fair rent increases to facilities that have documented fair rent
314 additions placed in service in the cost report year ending September 30,
315 2020, that are not otherwise included in rates issued. For the fiscal year
316 ending June 30, 2023, rates shall not exceed those in effect for the fiscal
317 year ending June 30, 2022, except the commissioner may, in the
318 commissioner's discretion and within available appropriations, provide
319 pro rata fair rent increases to facilities which have documented fair rent
320 additions placed in service in the cost report year ending September 30,
321 2021, that are not otherwise included in rates issued. For the fiscal years
322 ending June 30, 2022, and June 30, 2023, a facility may receive a rate
323 increase for a capital improvement approved by the Department of
324 Developmental Services, in consultation with the Department of Social

325 Services, for the health or safety of the residents during the fiscal year
326 ending June 30, 2022, or June 30, 2023, only to the extent such rate
327 increases are within available appropriations. Any facility that has a
328 significant decrease in land and building costs shall receive a reduced
329 rate to reflect such decrease in land and building costs. For the fiscal
330 years ending June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015,
331 June 30, 2016, June 30, 2017, June 30, 2018, June 30, 2019, June 30, 2020,
332 June 30, 2021, June 30, 2022, and June 30, 2023, the Commissioner of
333 Social Services may provide fair rent increases to any facility that has
334 undergone a material change in circumstances related to fair rent and
335 has an approved certificate of need pursuant to section 17b-352, 17b-353,
336 17b-354 or 17b-355. Notwithstanding the provisions of this section, the
337 Commissioner of Social Services may, within available appropriations,
338 increase or decrease rates issued to intermediate care facilities for
339 individuals with intellectual disabilities to reflect a reduction in
340 available appropriations as provided in subsection (a) of this section.
341 For the fiscal years ending June 30, 2014, and June 30, 2015, the
342 commissioner shall not consider rebasing in determining rates.
343 Notwithstanding the provisions of this subsection, effective July 1, 2021,
344 and July 1, 2022, the commissioner shall, within available
345 appropriations, increase rates for the purpose of wage and benefit
346 enhancements for employees of intermediate care facilities. Facilities
347 that receive a rate adjustment for the purpose of wage and benefit
348 enhancements but do not provide increases in employee salaries as
349 described in this subsection on or before July 31, 2021, and July 31, 2022,
350 respectively, may be subject to a rate decrease in the same amount as the
351 adjustment by the commissioner. There shall be no increase to rates
352 based on inflation or any inflationary factor for the fiscal years ending
353 June 30, 2022, and June 30, 2023. Notwithstanding any other provisions
354 of the general statutes or regulations adopted thereunder, any
355 subsequent increase to rates based on inflation as authorized for any
356 succeeding fiscal year shall be adjusted as determined by the
357 commissioner. The rate of inflation shall be computed based on the
358 percentage increase, if any, in the most recent calendar year average in
359 the gross domestic product deflator over the average for the previous

360 calendar year. Any increase to rates based on inflation shall be applied
361 prior to the application of any other budget adjustment factors that may
362 impact such rates.

363 (2) The Commissioner of Social Services shall determine whether and
364 to what extent a change in ownership of a facility shall occasion the
365 rebasings of the facility's costs. There shall be no inflation adjustment
366 during a year in which a facility's rates are rebased. For the fiscal year
367 ending June 30, 2024, and each subsequent fiscal year, the commissioner
368 may, in the commissioner's discretion and within available
369 appropriations, provide pro rata fair rent increases to facilities which
370 have documented fair rent additions placed in service in the cost report
371 years that are not otherwise included in rates issued.

372 Sec. 3. Subsection (i) of section 17b-340 of the general statutes is
373 repealed and the following is substituted in lieu thereof (*Effective July 1,*
374 *2023*):

375 (i) For the fiscal year ending June 30, 1993, any residential care home
376 with an operating cost component of its rate in excess of one hundred
377 thirty per cent of the median of operating cost components of rates in
378 effect January 1, 1992, shall not receive an operating cost component
379 increase. For the fiscal year ending June 30, 1993, any residential care
380 home with an operating cost component of its rate that is less than one
381 hundred thirty per cent of the median of operating cost components of
382 rates in effect January 1, 1992, shall have an allowance for real wage
383 growth equal to sixty-five per cent of the increase determined in
384 accordance with subsection (q) of section 17-311-52 of the regulations of
385 Connecticut state agencies, provided such operating cost component
386 shall not exceed one hundred thirty per cent of the median of operating
387 cost components in effect January 1, 1992. Beginning with the fiscal year
388 ending June 30, 1993, for the purpose of determining allowable fair rent,
389 a residential care home with allowable fair rent less than the twenty-
390 fifth percentile of the state-wide allowable fair rent shall be reimbursed
391 as having allowable fair rent equal to the twenty-fifth percentile of the
392 state-wide allowable fair rent. Beginning with the fiscal year ending

393 June 30, 1997, a residential care home with allowable fair rent less than
394 three dollars and ten cents per day shall be reimbursed as having
395 allowable fair rent equal to three dollars and ten cents per day. Property
396 additions placed in service during the cost year ending September 30,
397 1996, or any succeeding cost year shall receive a fair rent allowance for
398 such additions as an addition to three dollars and ten cents per day if
399 the fair rent for the facility for property placed in service prior to
400 September 30, 1995, is less than or equal to three dollars and ten cents
401 per day. Beginning with the fiscal year ending June 30, 2016, a
402 residential care home shall be reimbursed the greater of the allowable
403 accumulated fair rent reimbursement associated with real property
404 additions and land as calculated on a per day basis or three dollars and
405 ten cents per day if the allowable reimbursement associated with real
406 property additions and land is less than three dollars and ten cents per
407 day. For the fiscal year ending June 30, 1996, and any succeeding fiscal
408 year, the allowance for real wage growth, as determined in accordance
409 with subsection (q) of section 17-311-52 of the regulations of Connecticut
410 state agencies, shall not be applied. For the fiscal year ending June 30,
411 1996, and any succeeding fiscal year, the inflation adjustment made in
412 accordance with subsection (p) of section 17-311-52 of the regulations of
413 Connecticut state agencies shall not be applied to real property costs.
414 Beginning with the fiscal year ending June 30, 1997, minimum allowable
415 patient days for rate computation purposes for a residential care home
416 with twenty-five beds or less shall be eighty-five per cent of licensed
417 capacity. Beginning with the fiscal year ending June 30, 2002, for the
418 purposes of determining the allowable salary of an administrator of a
419 residential care home with sixty beds or less the department shall revise
420 the allowable base salary to thirty-seven thousand dollars to be annually
421 inflated thereafter in accordance with section 17-311-52 of the
422 regulations of Connecticut state agencies. The rates for the fiscal year
423 ending June 30, 2002, shall be based upon the increased allowable salary
424 of an administrator, regardless of whether such amount was expended
425 in the 2000 cost report period upon which the rates are based. Beginning
426 with the fiscal year ending June 30, 2000, and until the fiscal year ending
427 June 30, 2009, inclusive, the inflation adjustment for rates made in

428 accordance with subsection (p) of section 17-311-52 of the regulations of
429 Connecticut state agencies shall be increased by two per cent, and
430 beginning with the fiscal year ending June 30, 2002, the inflation
431 adjustment for rates made in accordance with subsection (c) of said
432 section shall be increased by one per cent. Beginning with the fiscal year
433 ending June 30, 1999, for the purpose of determining the allowable
434 salary of a related party, the department shall revise the maximum
435 salary to twenty-seven thousand eight hundred fifty-six dollars to be
436 annually inflated thereafter in accordance with section 17-311-52 of the
437 regulations of Connecticut state agencies and beginning with the fiscal
438 year ending June 30, 2001, such allowable salary shall be computed on
439 an hourly basis and the maximum number of hours allowed for a related
440 party other than the proprietor shall be increased from forty hours to
441 forty-eight hours per work week. For the fiscal year ending June 30,
442 2005, each facility shall receive a rate that is two and one-quarter per
443 cent more than the rate the facility received in the prior fiscal year,
444 except any facility that would have been issued a lower rate effective
445 July 1, 2004, than for the fiscal year ending June 30, 2004, due to interim
446 rate status or agreement with the department shall be issued such lower
447 rate effective July 1, 2004. Effective upon receipt of all the necessary
448 federal approvals to secure federal financial participation matching
449 funds associated with the rate increase provided in subdivision (4) of
450 subsection (f) of this section, but in no event earlier than October 1, 2005,
451 and provided the user fee imposed under section 17b-320 is required to
452 be collected, each facility shall receive a rate that is determined in
453 accordance with applicable law and subject to appropriations, except
454 any facility that would have been issued a lower rate effective October
455 1, 2005, than for the fiscal year ending June 30, 2005, due to interim rate
456 status or agreement with the department, shall be issued such lower rate
457 effective October 1, 2005. Such rate increase shall remain in effect unless:
458 (1) The federal financial participation matching funds associated with
459 the rate increase are no longer available; or (2) the user fee created
460 pursuant to section 17b-320 is not in effect. For the fiscal year ending
461 June 30, 2007, rates in effect for the period ending June 30, 2006, shall
462 remain in effect until September 30, 2006, except any facility that would

463 have been issued a lower rate effective July 1, 2006, than for the fiscal
464 year ending June 30, 2006, due to interim rate status or agreement with
465 the department, shall be issued such lower rate effective July 1, 2006.
466 Effective October 1, 2006, no facility shall receive a rate that is more than
467 four per cent greater than the rate in effect for the facility on September
468 30, 2006, except for any facility that would have been issued a lower rate
469 effective October 1, 2006, due to interim rate status or agreement with
470 the department, shall be issued such lower rate effective October 1, 2006.
471 For the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect
472 for the period ending June 30, 2009, shall remain in effect until June 30,
473 2011, except any facility that would have been issued a lower rate for
474 the fiscal year ending June 30, 2010, or the fiscal year ending June 30,
475 2011, due to interim rate status or agreement with the department, shall
476 be issued such lower rate, except (A) any facility that would have been
477 issued a lower rate for the fiscal year ending June 30, 2010, or the fiscal
478 year ending June 30, 2011, due to interim rate status or agreement with
479 the Commissioner of Social Services shall be issued such lower rate; and
480 (B) the commissioner may increase a facility's rate for reasonable costs
481 associated with such facility's compliance with the provisions of section
482 19a-495a concerning the administration of medication by unlicensed
483 personnel. For the fiscal year ending June 30, 2012, rates in effect for the
484 period ending June 30, 2011, shall remain in effect until June 30, 2012,
485 except that (i) any facility that would have been issued a lower rate for
486 the fiscal year ending June 30, 2012, due to interim rate status or
487 agreement with the Commissioner of Social Services shall be issued
488 such lower rate; and (ii) the commissioner may increase a facility's rate
489 for reasonable costs associated with such facility's compliance with the
490 provisions of section 19a-495a concerning the administration of
491 medication by unlicensed personnel. For the fiscal year ending June 30,
492 2013, the Commissioner of Social Services may, within available
493 appropriations, provide a rate increase to a residential care home. Any
494 facility that would have been issued a lower rate for the fiscal year
495 ending June 30, 2013, due to interim rate status or agreement with the
496 Commissioner of Social Services shall be issued such lower rate. For the
497 fiscal years ending June 30, 2012, and June 30, 2013, the Commissioner

498 of Social Services may provide fair rent increases to any facility that has
499 undergone a material change in circumstances related to fair rent and
500 has an approved certificate of need pursuant to section 17b-352, 17b-353,
501 17b-354 or 17b-355. For the fiscal years ending June 30, 2014, and June
502 30, 2015, for those facilities that have a calculated rate greater than the
503 rate in effect for the fiscal year ending June 30, 2013, the commissioner
504 may increase facility rates based upon available appropriations up to a
505 stop gain as determined by the commissioner. No facility shall be issued
506 a rate that is lower than the rate in effect on June 30, 2013, except that
507 any facility that would have been issued a lower rate for the fiscal year
508 ending June 30, 2014, or the fiscal year ending June 30, 2015, due to
509 interim rate status or agreement with the commissioner, shall be issued
510 such lower rate. For the fiscal year ending June 30, 2014, and each fiscal
511 year thereafter, a residential care home shall receive a rate increase for
512 any capital improvement made during the fiscal year for the health and
513 safety of residents and approved by the Department of Social Services,
514 provided such rate increase is within available appropriations. For the
515 fiscal year ending June 30, 2015, and each succeeding fiscal year
516 thereafter, costs of less than ten thousand dollars that are incurred by a
517 facility and are associated with any land, building or nonmovable
518 equipment repair or improvement that are reported in the cost year used
519 to establish the facility's rate shall not be capitalized for a period of more
520 than five years for rate-setting purposes. For the fiscal year ending June
521 30, 2015, subject to available appropriations, the commissioner may, at
522 the commissioner's discretion: Increase the inflation cost limitation
523 under subsection (c) of section 17-311-52 of the regulations of
524 Connecticut state agencies, provided such inflation allowance factor
525 does not exceed a maximum of five per cent; establish a minimum rate
526 of return applied to real property of five per cent inclusive of assets
527 placed in service during cost year 2013; waive the standard rate of return
528 under subsection (f) of section 17-311-52 of the regulations of
529 Connecticut state agencies for ownership changes or health and safety
530 improvements that exceed one hundred thousand dollars and that are
531 required under a consent order from the Department of Public Health;
532 and waive the rate of return adjustment under subsection (f) of section

533 17-311-52 of the regulations of Connecticut state agencies to avoid
534 financial hardship. For the fiscal years ending June 30, 2016, and June
535 30, 2017, rates shall not exceed those in effect for the period ending June
536 30, 2015, except the commissioner may, in the commissioner's discretion
537 and within available appropriations, provide pro rata fair rent increases
538 to facilities which have documented fair rent additions placed in service
539 in cost report years ending September 30, 2014, and September 30, 2015,
540 that are not otherwise included in rates issued. For the fiscal years
541 ending June 30, 2016, and June 30, 2017, and each succeeding fiscal year,
542 any facility that would have been issued a lower rate, due to interim rate
543 status, a change in allowable fair rent or agreement with the department,
544 shall be issued such lower rate. For the fiscal year ending June 30, 2018,
545 rates shall not exceed those in effect for the period ending June 30, 2017,
546 except the commissioner may, in the commissioner's discretion and
547 within available appropriations, provide pro rata fair rent increases to
548 facilities which have documented fair rent additions placed in service in
549 the cost report year ending September 30, 2016, that are not otherwise
550 included in rates issued. For the fiscal year ending June 30, 2019, rates
551 shall not exceed those in effect for the period ending June 30, 2018,
552 except the commissioner may, in the commissioner's discretion and
553 within available appropriations, provide pro rata fair rent increases to
554 facilities which have documented fair rent additions placed in service in
555 the cost report year ending September 30, 2017, that are not otherwise
556 included in rates issued. For the fiscal year ending June 30, 2020, rates
557 shall not exceed those in effect for the fiscal year ending June 30, 2019,
558 except the commissioner may, in the commissioner's discretion and
559 within available appropriations, provide pro rata fair rent increases to
560 facilities which have documented fair rent additions placed in service in
561 the cost report year ending September 30, 2018, that are not otherwise
562 included in rates issued. For the fiscal year ending June 30, 2021, rates
563 shall not exceed those in effect for the fiscal year ending June 30, 2020,
564 except the commissioner may, in the commissioner's discretion and
565 within available appropriations, provide pro rata fair rent increases to
566 facilities which have documented fair rent additions placed in service in
567 the cost report year ending September 30, 2019, that are not otherwise

568 included in rates issued. For the fiscal year ending June 30, 2022, the
569 commissioner may, in the commissioner's discretion and within
570 available appropriations, provide pro rata fair rent increases to facilities
571 that have documented fair rent additions placed in service in the cost
572 report year ending September 30, 2020, that are not otherwise included
573 in rates issued. For the fiscal year ending June 30, 2023, the
574 commissioner may, in the commissioner's discretion and within
575 available appropriations, provide pro rata fair rent increases to facilities
576 which have documented fair rent additions placed in service in the cost
577 report year ending September 30, 2021, that are not otherwise included
578 in rates issued. For the fiscal years ending June 30, 2022, and June 30,
579 2023, a facility may receive a rate increase for a capital improvement
580 approved by the Department of Social Services, for the health or safety
581 of the residents during the fiscal year ending June 30, 2022, or June 30,
582 2023, only to the extent such rate increases are within available
583 appropriations. For the fiscal year ending June 30, 2022, and June 30,
584 2023, rates shall be based upon rates in effect for the fiscal year ending
585 June 30, 2021, inflated by the gross domestic product deflator applicable
586 to each rate year, except the commissioner may, in the commissioner's
587 discretion and within available appropriations, provide pro rata fair
588 rent increases to facilities which have documented fair rent additions
589 placed in service in the cost report years ending September 30, 2020, and
590 September 30, 2021, that are not otherwise included in rates issued.
591 Notwithstanding any other provisions of the general statutes or
592 regulations adopted thereunder, any subsequent increase to rates based
593 on inflation as authorized for any succeeding fiscal year shall be
594 adjusted as determined by the commissioner. The rate of inflation shall
595 be computed based on the percentage increase, if any, in the most recent
596 calendar year average in the gross domestic product deflator over the
597 average for the previous calendar year. Any increase to rates based on
598 inflation shall be applied prior to the application of any other budget
599 adjustment factors that may impact such rates. The commissioner shall
600 determine whether and to what extent a change in ownership of a
601 facility shall occasion the rebasing of the facility's costs. There shall be
602 no inflation adjustment during a year in which a facility's rates are

603 rebased.

604 Sec. 4. Subsection (a) of section 17b-340 of the general statutes is
605 repealed and the following is substituted in lieu thereof (*Effective from*
606 *passage*):

607 (a) For purposes of this subsection, (1) a "related party" includes, but
608 is not limited to, any company related to a chronic and convalescent
609 nursing home through family association, common ownership, control
610 or business association with any of the owners, operators or officials of
611 such nursing home; (2) "company" means any person, partnership,
612 association, holding company, limited liability company or corporation;
613 (3) "family association" means a relationship by birth, marriage or
614 domestic partnership; and (4) "profit and loss statement" means the
615 most recent annual statement on profits and losses finalized by a related
616 party before the annual report mandated under this subsection. The
617 rates to be paid by or for persons aided or cared for by the state or any
618 town in this state to licensed chronic and convalescent nursing homes,
619 to chronic disease hospitals associated with chronic and convalescent
620 nursing homes, to rest homes with nursing supervision, to licensed
621 residential care homes, as defined by section 19a-490, and to residential
622 facilities for persons with intellectual disability that are licensed
623 pursuant to section 17a-227 and certified to participate in the Title XIX
624 Medicaid program as intermediate care facilities for individuals with
625 intellectual disabilities, for room, board and services specified in
626 licensing regulations issued by the licensing agency shall be determined
627 annually, except as otherwise provided in this subsection by the
628 Commissioner of Social Services, to be effective July first of each year
629 except as otherwise provided in this subsection. Such rates shall be
630 determined on a basis of a reasonable payment for such necessary
631 services, which basis shall take into account as a factor the costs of such
632 services. Cost of such services shall include reasonable costs mandated
633 by collective bargaining agreements with certified collective bargaining
634 agents or other agreements between the employer and employees,
635 provided "employees" shall not include persons employed as managers
636 or chief administrators or required to be licensed as nursing home

637 administrators, and compensation for services rendered by proprietors
638 at prevailing wage rates, as determined by application of principles of
639 accounting as prescribed by said commissioner. Cost of such services
640 shall not include amounts paid by the facilities to employees as salary,
641 or to attorneys or consultants as fees, where the responsibility of the
642 employees, attorneys, or consultants is to persuade or seek to persuade
643 the other employees of the facility to support or oppose unionization.
644 Nothing in this subsection shall prohibit inclusion of amounts paid for
645 legal counsel related to the negotiation of collective bargaining
646 agreements, the settlement of grievances or normal administration of
647 labor relations. The commissioner may, in the commissioner's
648 discretion, allow the inclusion of extraordinary and unanticipated costs
649 of providing services that were incurred to avoid an immediate negative
650 impact on the health and safety of patients. The commissioner may, in
651 the commissioner's discretion, based upon review of a facility's costs,
652 direct care staff to patient ratio and any other related information, revise
653 a facility's rate for any increases or decreases to total licensed capacity
654 of more than ten beds or changes to its number of licensed rest home
655 with nursing supervision beds and chronic and convalescent nursing
656 home beds. The commissioner may, in the commissioner's discretion,
657 revise the rate of a facility that is closing. An interim rate issued for the
658 period during which a facility is closing shall be based on a review of
659 facility costs, the expected duration of the close-down period, the
660 anticipated impact on Medicaid costs, available appropriations and the
661 relationship of the rate requested by the facility to the average Medicaid
662 rate for a close-down period. The commissioner may so revise a facility's
663 rate established for the fiscal year ending June 30, 1993, and thereafter
664 for any bed increases, decreases or changes in licensure effective after
665 October 1, 1989. Effective July 1, 1991, in facilities that have both a
666 chronic and convalescent nursing home and a rest home with nursing
667 supervision, the rate for the rest home with nursing supervision shall
668 not exceed such facility's rate for its chronic and convalescent nursing
669 home. All such facilities for which rates are determined under this
670 subsection shall report on a fiscal year basis ending on September
671 thirtieth. Such report shall be submitted to the commissioner by

672 February fifteenth. Each for-profit chronic and convalescent nursing
673 home that receives state funding pursuant to this section shall include
674 in such annual report a profit and loss statement from each related party
675 that receives from such chronic and convalescent nursing home fifty
676 thousand dollars or more per year for goods, fees and services. No cause
677 of action or liability shall arise against the state, the Department of Social
678 Services, any state official or agent for failure to take action based on the
679 information required to be reported under this subsection. The
680 commissioner may reduce the rate in effect for a facility that fails to
681 submit a complete and accurate report on or before February fifteenth
682 by an amount not to exceed ten per cent of such rate. If a licensed
683 residential care home fails to submit a complete and accurate report, the
684 department shall notify such home of the failure and the home shall
685 have thirty days from the date the notice was issued to submit a
686 complete and accurate report. If a licensed residential care home fails to
687 submit a complete and accurate report not later than thirty days after
688 the date of notice, such home may not receive a retroactive rate increase,
689 in the commissioner's discretion. The commissioner shall, annually, on
690 or before April first, report the data contained in the reports of such
691 facilities on the department's Internet web site. For the cost reporting
692 year commencing October 1, 1985, and for subsequent cost reporting
693 years, facilities shall report the cost of using the services of any nursing
694 personnel supplied by a temporary nursing services agency by
695 separating said cost into two categories, the portion of the cost equal to
696 the salary of the employee for whom the nursing personnel supplied by
697 a temporary nursing services agency is substituting shall be considered
698 a nursing cost and any cost in excess of such salary shall be further
699 divided so that seventy-five per cent of the excess cost shall be
700 considered an administrative or general cost and twenty-five per cent of
701 the excess cost shall be considered a nursing cost, provided if the total
702 costs of a facility for nursing personnel supplied by a temporary nursing
703 services agency in any cost year are equal to or exceed fifteen per cent
704 of the total nursing expenditures of the facility for such cost year, no
705 portion of such costs in excess of fifteen per cent shall be classified as
706 administrative or general costs. The commissioner, in determining such

707 rates, shall also take into account the classification of patients or
708 boarders according to special care requirements or classification of the
709 facility according to such factors as facilities and services and such other
710 factors as the commissioner deems reasonable, including anticipated
711 fluctuations in the cost of providing such services. The commissioner
712 may establish a separate rate for a facility or a portion of a facility for
713 traumatic brain injury patients who require extensive care but not acute
714 general hospital care. Such separate rate shall reflect the special care
715 requirements of such patients. If changes in federal or state laws,
716 regulations or standards adopted subsequent to June 30, 1985, result in
717 increased costs or expenditures in an amount exceeding one-half of one
718 per cent of allowable costs for the most recent cost reporting year, the
719 commissioner shall adjust rates and provide payment for any such
720 increased reasonable costs or expenditures within a reasonable period
721 of time retroactive to the date of enforcement. Nothing in this section
722 shall be construed to require the Department of Social Services to adjust
723 rates and provide payment for any increases in costs resulting from an
724 inspection of a facility by the Department of Public Health. Such
725 assistance as the commissioner requires from other state agencies or
726 departments in determining rates shall be made available to the
727 commissioner at the commissioner's request. Payment of the rates
728 established pursuant to this section shall be conditioned on the
729 establishment by such facilities of admissions procedures that conform
730 with this section, section 19a-533 and all other applicable provisions of
731 the law and the provision of equality of treatment to all persons in such
732 facilities. The established rates shall be the maximum amount
733 chargeable by such facilities for care of such beneficiaries, and the
734 acceptance by or on behalf of any such facility of any additional
735 compensation for care of any such beneficiary from any other person or
736 source shall constitute the offense of aiding a beneficiary to obtain aid
737 to which the beneficiary is not entitled and shall be punishable in the
738 same manner as is provided in subsection (b) of section 17b-97.
739 Notwithstanding any provision of this section, the Commissioner of
740 Social Services may, within available appropriations, provide an interim
741 rate increase for a licensed chronic and convalescent nursing home or a

742 rest home with nursing supervision for rate periods no earlier than April
743 1, 2004, only if the commissioner determines that the increase is
744 necessary to avoid the filing of a petition for relief under Title 11 of the
745 United States Code; imposition of receivership pursuant to sections 19a-
746 542 and 19a-543; or substantial deterioration of the facility's financial
747 condition that may be expected to adversely affect resident care and the
748 continued operation of the facility, and the commissioner determines
749 that the continued operation of the facility is in the best interest of the
750 state. The commissioner shall consider any requests for interim rate
751 increases on file with the department from March 30, 2004, and those
752 submitted subsequently for rate periods no earlier than April 1, 2004.
753 When reviewing an interim rate increase request the commissioner
754 shall, at a minimum, consider: (A) Existing chronic and convalescent
755 nursing home or rest home with nursing supervision utilization in the
756 area and projected bed need; (B) physical plant long-term viability and
757 the ability of the owner or purchaser to implement any necessary
758 property improvements; (C) licensure and certification compliance
759 history; (D) reasonableness of actual and projected expenses; and (E) the
760 ability of the facility to meet wage and benefit costs. No interim rate
761 shall be increased pursuant to this subsection in excess of one hundred
762 fifteen per cent of the median rate for the facility's peer grouping,
763 established pursuant to [subdivision (2) of subsection (f) of this section]
764 subdivision (3) of subsection (a) of section 17b-340d, as amended by this
765 act, unless recommended by the commissioner and approved by the
766 Secretary of the Office of Policy and Management after consultation
767 with the commissioner. Such median rates shall be published by the
768 Department of Social Services not later than April first of each year. In
769 the event that a facility granted an interim rate increase pursuant to this
770 section is sold or otherwise conveyed for value to an unrelated entity
771 less than five years after the effective date of such rate increase, the rate
772 increase shall be deemed rescinded and the department shall recover an
773 amount equal to the difference between payments made for all affected
774 rate periods and payments that would have been made if the interim
775 rate increase was not granted. The commissioner may seek recovery of
776 such payments from any facility with common ownership. With the

777 approval of the Secretary of the Office of Policy and Management, the
778 commissioner may waive recovery and rescission of the interim rate for
779 good cause shown that is not inconsistent with this section, including,
780 but not limited to, transfers to family members that were made for no
781 value. The commissioner shall provide written quarterly reports to the
782 joint standing committees of the General Assembly having cognizance
783 of matters relating to aging, human services and appropriations and the
784 budgets of state agencies, that identify each facility requesting an
785 interim rate increase, the amount of the requested rate increase for each
786 facility, the action taken by the commissioner and the secretary pursuant
787 to this subsection, and estimates of the additional cost to the state for
788 each approved interim rate increase. Nothing in this subsection shall
789 prohibit the commissioner from increasing the rate of a licensed chronic
790 and convalescent nursing home or a rest home with nursing supervision
791 for allowable costs associated with facility capital improvements or
792 increasing the rate in case of a sale of a licensed chronic and convalescent
793 nursing home or a rest home with nursing supervision if receivership
794 has been imposed on such home. For purposes of this section,
795 "temporary nursing services agency" and "nursing personnel" have the
796 same meaning as provided in section 19a-118.

797 Sec. 5. Subsection (a) of section 17b-340d of the general statutes is
798 repealed and the following is substituted in lieu thereof (*Effective from*
799 *passage*):

800 (a) The Commissioner of Social Services shall implement an acuity-
801 based methodology for Medicaid reimbursement of nursing home
802 services effective July 1, 2022. Notwithstanding section 17b-340, as
803 amended by this act, for the fiscal year ending June 30, 2023, and
804 annually thereafter, the Commissioner of Social Services shall establish
805 Medicaid rates paid to nursing home facilities based on cost years
806 ending on September thirtieth in accordance with the following:

807 (1) Case-mix adjustments to the direct care component, which will be
808 based on Minimum Data Set resident assessment data as well as cost
809 data reported for the cost year ending September 30, 2019, shall be made

810 effective beginning July 1, 2022, and updated every quarter thereafter.
811 After modeling such case-mix adjustments, the Commissioner of Social
812 Services shall evaluate impact on a facility by facility basis and, not later
813 than October 1, 2021, (A) make recommendations to the Secretary of the
814 Office of Policy and Management, and (B) submit a report on the
815 recommendations, in accordance with the provisions of section 11-4a, to
816 the joint standing committees of the General Assembly having
817 cognizance of matters relating to appropriations and the budgets of state
818 agencies and human services on any adjustments needed to facilitate the
819 transition to the new methodology on July 1, 2022. This evaluation may
820 include a review of inflationary allowances, case mix and budget
821 adjustment factors and stop loss and stop gain corridors and the ability
822 to make such adjustments within available appropriations.

823 (2) Beginning July 1, 2022, facilities will be required to comply with
824 collection and reporting of quality metrics as specified by the
825 Department of Social Services, after consultation with the nursing home
826 industry, consumers, employees and the Department of Public Health.
827 Rate adjustments based on performance on quality metrics will be
828 phased in, beginning July 1, 2022, with a period of reporting only.

829 (3) Geographic peer groupings of facilities shall be established by the
830 Department of Social Services pursuant to regulations adopted in
831 accordance with subsection (b) of this section.

832 (4) Allowable costs shall be divided into the following five cost
833 components: (A) Direct costs, which shall include salaries for nursing
834 personnel, related fringe benefits and costs for nursing personnel
835 supplied by a temporary nursing services agency; (B) indirect costs,
836 which shall include professional fees, dietary expenses, housekeeping
837 expenses, laundry expenses, supplies related to patient care, salaries for
838 indirect care personnel and related fringe benefits; (C) fair rent, which
839 shall be defined in regulations adopted in accordance with subsection
840 (b) of this section; (D) capital-related costs, which shall include property
841 taxes, insurance expenses, equipment leases and equipment
842 depreciation; and (E) administrative and general costs, which shall

843 include maintenance and operation of plant expenses, salaries for
844 administrative and maintenance personnel and related fringe benefits.
845 For (i) direct costs, the maximum cost shall be equal to one hundred
846 thirty-five per cent of the median allowable cost of that peer grouping;
847 (ii) indirect costs, the maximum cost shall be equal to one hundred
848 fifteen per cent of the state-wide median allowable cost; (iii) fair rent,
849 the amount shall be calculated utilizing the amount approved pursuant
850 to section 17b-353; (iv) capital-related costs, there shall be no maximum;
851 and (v) administrative and general costs, the maximum shall be equal to
852 the state-wide median allowable cost. For purposes of this subdivision,
853 "temporary nursing services agency" and "nursing personnel" have the
854 same meaning as provided in section 19a-118.

855 (5) Costs in excess of the maximum amounts established under this
856 subsection shall not be recognized as allowable costs, except that the
857 commissioner may establish rates whereby allowable costs may exceed
858 such maximum amounts for beds which are restricted to use by patients
859 with acquired immune deficiency syndrome, traumatic brain injury or
860 other specialized services.

861 [(5) For the fiscal year ending] (6) On or after June 30, 2022, the
862 commissioner may, in the commissioner's discretion and within
863 available appropriations, provide pro rata fair rent increases to facilities
864 which have documented fair rent additions placed in service in the most
865 recently filed cost report [year ending September 30, 2020,] that are not
866 otherwise included in the rates issued.

867 (7) For the purpose of determining allowable fair rent, a facility with
868 allowable fair rent less than the twenty-fifth percentile of the state-wide
869 allowable fair rent shall be reimbursed as having allowable fair rent
870 equal to the twenty-fifth percentile of the state-wide allowable fair rent.
871 Any facility with a rate of return on real property other than land in
872 excess of eleven per cent shall have such allowance revised to eleven per
873 cent. Any facility or its related realty affiliate which finances or
874 refinances debt through bonds issued by the Connecticut Health and
875 Education Facilities Authority shall report the terms and conditions of

876 such financing or refinancing to the Commissioner of Social Services not
877 later than thirty days after completing such financing or refinancing.
878 The commissioner may revise the facility's fair rent component of its rate
879 to reflect any financial benefit the facility or its related realty affiliate
880 received as a result of such financing or refinancing. The commissioner
881 shall determine allowable fair rent for real property other than land
882 based on the rate of return for the cost year in which such bonds were
883 issued. The financial benefit resulting from a facility financing or
884 refinancing debt through such bonds shall be shared between the state
885 and the facility to an extent determined by the commissioner on a case-
886 by-case basis and shall be reflected in an adjustment to the facility's
887 allowable fair rent.

888 (8) A facility shall receive cost efficiency adjustments for indirect costs
889 and for administrative and general costs if such costs are below the
890 state-wide median costs. The cost efficiency adjustments shall equal
891 twenty-five per cent of the difference between allowable reported costs
892 and the applicable median allowable cost established pursuant to
893 subdivision (4) of this subsection.

894 (9) On and after July 1, 2025, costs shall be rebased no more frequently
895 than every two years and no less frequently than every four years, as
896 determined by the commissioner. There shall be no inflation adjustment
897 during a year in which a facility's rates are rebased. The commissioner
898 shall determine whether and to what extent a change in ownership of a
899 facility shall occasion the rebasing of the facility's costs.

900 (10) The method of establishing rates for new facilities shall be
901 determined by the commissioner in accordance with the provisions of
902 this subsection.

903 [(6)] (11) There shall be no increase to rates based on inflation or any
904 inflationary factor for the fiscal years ending June 30, 2022, and June 30,
905 2023, unless otherwise authorized under subdivision (1) of this
906 subsection. Notwithstanding any other provisions of the general
907 statutes or regulations adopted thereunder, any subsequent increase to
908 rates based on inflation as authorized for any succeeding fiscal year

909 shall be adjusted as determined by the commissioner. The rate of
 910 inflation shall be computed based on the percentage increase, if any, in
 911 the most recent calendar year average in the gross domestic product
 912 deflator over the average for the previous calendar year. Any increase
 913 to rates based on inflation shall be applied prior to the application of any
 914 other budget adjustment factors that may impact such rates.

915 ~~[(7)]~~ (12) For purposes of computing minimum allowable patient
 916 days, utilization of a facility's certified beds shall be determined at a
 917 minimum of ninety per cent of capacity, except for facilities that have
 918 undergone a change in ownership, new facilities, and facilities which
 919 are certified for additional beds which may be permitted a lower
 920 occupancy rate for the first three months of operation after the effective
 921 date of licensure.

922 ~~[(8)]~~ (13) Rates determined under this section shall comply with
 923 federal laws and regulations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	17b-244
Sec. 2	<i>July 1, 2023</i>	17b-340(h)
Sec. 3	<i>July 1, 2023</i>	17b-340(i)
Sec. 4	<i>from passage</i>	17b-340(a)
Sec. 5	<i>from passage</i>	17b-340d(a)

HS *Joint Favorable Subst. C/R*
 APP *Joint Favorable Subst.*

APP

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes various clarifying and technical changes to align state law with current practice and regulations related to acuity reimbursement for nursing homes, rebasing and fair rent adjustments, and inflation factors, is not anticipated to result in a fiscal impact to the state.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1109****AN ACT CONCERNING MEDICAID REIMBURSEMENT TO COMMUNITY LIVING ARRANGEMENTS, INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES, RESIDENTIAL CARE HOMES AND NURSING FACILITIES.**

TABLE OF CONTENTS:

SUMMARY§ 1 — DSS PAYMENTS TO NON-ICF-ID BOARDING HOMES

Allows DSS to annually provide pro rata rent increases for fair rent additions not otherwise included in rates beginning in FY 24

§ 2 — DSS PAYMENTS TO ICF-IDS

Prohibits inflationary adjustments for FYs 22 and 23, generally conforming to current law, and requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates; allows DSS to provide annual pro rata rent increases beginning in FY 24

§ 3 — RESIDENTIAL CARE HOME RATES

Requires inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates

§§ 4 & 5 — NURSING HOME RATES

Allows the DSS commissioner to give pro rata fair rent increases, in her discretion and within available appropriations, to facilities with documented fair rent additions; sets a schedule for DSS to rebase facility costs; requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; and makes conforming changes

SUMMARY

This bill makes changes in laws related to rates and payments under Department of Social Services (DSS)-administered programs, as summarized in the section-by-section analysis below.

EFFECTIVE DATE: Various, see below.

§ 1 — DSS PAYMENTS TO NON-ICF-ID BOARDING HOMES

Allows DSS to annually provide pro rata rent increases for fair rent additions not otherwise included in rates beginning in FY 24

By law, DSS generally sets rates for room and board at private residential facilities and similar facilities operated by regional educational services centers that are licensed to provide residential care for people with certain disabilities, but not licensed as intermediate care facilities for people with intellectual disabilities (ICF-ID). Beginning in FY 24, the bill allows the DSS commissioner, in her discretion and within available appropriations, to provide pro rata fair rent increases in each fiscal year to facilities with documented fair rent additions placed in service in the cost report years (presumably, the most recently filed cost report) that are not otherwise included in issued rates.

The bill makes conforming changes and eliminates obsolete provisions.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 7, favorably reported by the Appropriations and Human Services committees, generally caps FY 24 and 25 rates at FY 23 levels for room and board at non-ICF-ID facilities.

§ 2 — DSS PAYMENTS TO ICF-IDS

Prohibits inflationary adjustments for FYs 22 and 23, generally conforming to current law, and requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates; allows DSS to provide annual pro rata rent increases beginning in FY 24

For intermediate care facilities for individuals with intellectual disabilities, the bill prohibits DSS from increasing rates based on inflation or any inflationary factors for FYs 22 and 23, conforming to current law that generally caps rates for those years with certain exceptions. For subsequent fiscal years, the bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The bill requires the inflation rate to be computed based on any percentage increase in the most recent calendar year average in the gross domestic product (GDP) deflator over the average for the previous calendar year. The bill requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill also requires DSS to determine whether and to what extent a change in facility ownership requires DSS to rebase the facility's costs. It prohibits any inflation adjustment during a year when a facility's rates are rebased. The bill allows DSS to give pro rata rent increases to facilities with documented fair rent additions placed in service in the cost report years (presumably, the most recently filed cost report) for each fiscal year beginning with FY 24.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 8, favorably reported by the Appropriations and Human Services committees, generally caps FY 24 rates at FY 23 levels and FY 25 rates at FY 24 levels, with certain exceptions.

§ 3 — RESIDENTIAL CARE HOME RATES

Requires inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; requires DSS to determine whether a facility's change in ownership requires DSS to rebase its costs to calculate payment rates

The bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The inflation rate must be computed based on any percentage increase in the most recent calendar year average in the GDP deflator over the average for the previous calendar year. The bill

requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill also requires DSS to determine whether and to what extent a change in facility ownership requires DSS to rebase the facility's costs. It prohibits any inflation adjustment during a year when a facility's rates are rebased.

EFFECTIVE DATE: July 1, 2023

Background — Related Bill

sHB 6665, § 11, favorably reported by the Appropriations and Human Services committees, requires DSS to determine FY 24 rates for residential care homes based on 2022 cost report filings and allows other increases within available appropriations.

§§ 4 & 5 — NURSING HOME RATES

Allows the DSS commissioner to give pro rata fair rent increases, in her discretion and within available appropriations, to facilities with documented fair rent additions; sets a schedule for DSS to rebase facility costs; requires future inflationary adjustments to be based on a GDP deflator and adjusted by the DSS commissioner as she determines; and makes conforming changes

Existing law requires DSS to implement an acuity-based reimbursement rate for nursing homes effective July 1, 2022. Acuity-based rates generally reimburse nursing homes based on the level of care needed for patients. In practice, DSS is transitioning from a cost-based system to the acuity-based system over a period of years. Beginning with FY 23 rates, the law requires DSS to set acuity-based rates under provisions on case-mix adjustments and geographic peer groups, among other things.

The bill clarifies that several provisions applicable under the cost-based methodology are also applicable under the acuity-based methodology, generally conforming to current practice. These include provisions:

1. allowing certain costs to exceed maximum amounts for beds restricted to patients with AIDS, traumatic brain injury, or other

- specialized services;
2. requiring DSS to reimburse a facility as though its allowable fair rent equaled the 25th percentile of the statewide allowable fair rent if the facility's actual allowable fair rent is below that level;
 3. requiring DSS to revise to 11% the allowance for a facility's rate of return on property other than land if the facility's rate of return exceeds 11%;
 4. requiring facilities to receive cost efficiency adjustments for indirect costs and administrative and general costs if the facility's costs are below the state-wide median costs;
 5. requiring facilities or their related realty affiliates that finance or refinance debt through bonds issued by the Connecticut Health and Education Facilities Authority (CHEFA) to report to DSS;
 6. allowing the DSS commissioner to revise the facility's fair rent to reflect any financial benefit the facility or its related realty affiliate received as a result; and
 7. requiring the state and the facility to share the financial benefit resulting from CHEFA bonds to an extent determined by the DSS commissioner on a case-by-case basis, reflected as an adjustment to the facility's allowable fair rent.

Existing law and the bill require the DSS commissioner to determine allowable fair rent for real property other than land based on the rate of return for the cost year in which CHEFA bonds were issued. Existing law for cost-based methodology limits this requirement to facilities that opened on or after October 1, 1992.

Existing law applicable to the cost-based reimbursement methodology additionally (1) requires the DSS commissioner to allow actual debt service costs for CHEFA bonds if the costs do not exceed property costs allowable under DSS regulations and (2) allows her to allow higher debt service costs for good cause.

For FY 22, current law allows the DSS commissioner to give pro rata fair rent increases, in her discretion and within available appropriations, to facilities with documented fair rent additions in the 2020 cost year that are not otherwise included in the issued rates. The bill extends this provision to future fiscal years beginning with FY 22.

Beginning July 1, 2025, the bill requires DSS to rebase facility costs at least every four years, but no more frequently than every two years. The bill prohibits inflationary adjustments in a year when DSS rebases a facility's rates. It requires DSS to determine whether and to what extent a facility's change in ownership requires DSS to rebase its rates.

The bill requires the DSS commissioner to adjust any authorized inflationary increase as she determines, regardless of any other state law or regulation. The inflation rate must be computed based on any percentage increase in the most recent calendar year average in the GDP deflator over the average for the previous calendar year. The bill requires DSS to apply any inflationary increase before applying any other budget adjustment factors.

The bill specifically requires the DSS commissioner to determine rates for new facilities under provisions in existing law and the bill on rates for existing nursing homes.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

Background — Related Bill

sHB 6665, § 9, favorably reported by the Appropriations and Human Services committees, limits inflationary increases to nursing home rates for FYs 24 and 25.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute Change of Reference - APP
Yea 21 Nay 0 (03/28/2023)

Appropriations Committee

Joint Favorable Substitute
Yea 42 Nay 7 (04/21/2023)